

FILED

08 FEB 27 PM 4:53

CLERK OF COURT

[Signature]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

January 2007 Grand Jury

08 CR 0551

JLS

UNITED STATES OF AMERICA,) Criminal Case No. _____
Plaintiff,) I N D I C T M E N T
v.) Title 18, U.S.C., Sec. 371 -
LUIS FRANCISCO PENA IBARRA,) Conspiracy
Defendant.)

The grand jury charges:

Count 1

Beginning on a date unknown but at least as early as January 14, 2002, and continuing up through at least August 20, 2007, within the Southern District of California and elsewhere, defendant LUIS FRANCISCO PENA IBARRA did knowingly conspire and agree together with Mark Anthony Kolowich, Michael Griego, both charged elsewhere, and others known and unknown to commit offenses against the United States, to wit: to knowingly import merchandise, that is, prescription pharmaceuticals, into the United States contrary to law, in that the merchandise was not declared at the border, as required by Title 19, United States Code, Section 1461, and the merchandise was an unapproved new drug, pursuant to Title 21, United States Code,

MKP:nlv:San Diego
2/25/08

1 Section 331(d), and that merchandise was misbranded, in that it was
2 a drug held for sale after introduction into interstate commerce and
3 dispensed without a written prescription from a licensed practitioner,
4 which is prohibited by Title 21, United States Code, Sections 331(a),
5 331(k) and 353(b)(1); all in violation of Title 18, United States
6 Code, Section 545;

7 As a method and means of the conspiracy, defendant LUIS FRANCISCO
8 PENA IBARRA would obtain prescription pharmaceuticals, such as Viagra
9 and Cialis, manufactured outside the United States through his
10 contacts from his pharmacy business in Mexico.

11 As a further method and means of the conspiracy, defendant LUIS
12 FRANCISCO PENA IBARRA would offer these prescription pharmaceuticals
13 for sale to individuals in the United States, by telephone and via the
14 internet.

15 As a further method and means of the conspiracy, defendant LUIS
16 FRANCISCO PENA IBARRA would employ individuals to smuggle these
17 prescription pharmaceuticals into the United States without declaring
18 them at the border, and store them at locations within the Southern
19 District of California.

20 As a further method and means of the conspiracy, defendant LUIS
21 FRANCISCO PENA IBARRA would employ individuals to ship the
22 pharmaceuticals to individuals within the United States, using the
23 U.S. Postal Service and other commercial interstate carriers.

24 //

25 //

26 //

27 //

28 //

OVERT ACTS

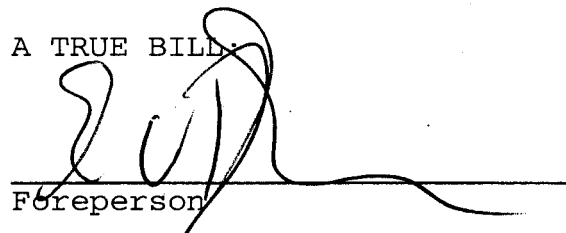
In furtherance of said conspiracy and in order to effect the objects thereof, the following overt acts, among others, were committed within the Southern District of California and elsewhere:

1. On or about January 14, 2002, in San Diego, Mark Kolowich wrote a check to defendant LUIS FRANCISCO PENA IBARRA as payment for prescription pharmaceuticals he received from the defendant from Mexico.
2. On or about March 20, 2004, in La Jolla, California, defendant LUIS FRANCISCO PENA IBARRA met with Michael Griego to discuss the sale of prescription pharmaceuticals.
3. On or about August 20, 2007, defendant LUIS FRANCISCO PENA IBARRA spoke by telephone with Michael Griego to discuss the sale of prescription pharmaceuticals.

All in violation of Title 18, United States Code, Section 371.

DATED: February 27, 2008.

A TRUE BILL


Foreperson

KAREN P. HEWITT
United States Attorney

By: 

MELANIE K. PIERSON
Assistant U.S. Attorney